IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1368 OF 2006

Robert David & Co. ... Petitioner

V/s.

Mumbai Metropolitan Regional Development Authority & Ors. ... Respondents

Mr. Santosh Shetty i/b. M.P. Vashi & Assoc. for the petitioner.
Ms. Kiran Bagalia, AGP for respondents.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED : 4th December, 2006

P.C.

. Rule. Heard forthwith.

2. The grievance of the petitioner is that notice under Section 351 of the BMC Act was served by respondent Nos.1 & 2 dated 12.11.2005. The petitioner replied to the same by the advocate's letter dated 16th November, 2005 and relied on various documents which are also produced as annexure. The petitioner received communication purporting to be order dated 14th March, 2006 directing the removal of the structure. This order is the subject matter of the present petition.

3. On behalf of respondents the learned counsel

points out that the powers to decide as to whether the structure is legal or illegal has been delegated to the Dy. Collector (Encroachments), Andheri and the records would be available with the said competent authority. Letter dated 14th March, 2006 is merely a communication of that decision to the petitioner.

4. Considering that there is nothing on record to indicate that the documents filed by the petitioner were considered, we set aside the order dated 14th March, 2006 and remand the matter for reconsideration to the Dy. Collector (Encroachments) to consider the documents filed by the petitioner and thereafter pass appropriate orders according to law not later than twelve weeks from today. Present status quo on the site to continue till the decision by the collector and communication by the petitioner. The petitioner to communicate the order in appeal to respondent No.1 and also to the Dy. Collector (Encroachments).

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]